

### **Remarks**

Claims 30-49 are pending. Claims 41, 42 and 45 are currently canceled. Claims 30-38, 43-44 and 49 have been withdrawn from consideration. Claims 39 and 40 are currently amended. Support for the amendments can be found throughout the written description, such as on page 23, line 22 to page 24, line 2. Reconsideration of the application is requested.

### **Claim Objections**

Claim 39 is objected to because it depends from withdrawn claim 30.

Applicant amended claim 39 by incorporating the subject matter of claim 30 thereby rendering this objection moot.

### **Information Disclosure Statement**

The office action states that applicant's 11/25/05 IDS fails to comply with 37 CFR 1.98(a)(3) because publication DE 44 02 943 A1 is in German and applicant has not provided a concise explanation of the relevance of the document.

Applicant states on page 11 starting at line 7, "grafting techniques for introducing reactive silane functionality onto polymers which are preferred in the present invention are described in . . . German Patent DE 44 02 943, for example."

Thus, applicant has made clear that DE '943 is a reference that discloses grafting techniques for introducing reactive silane functionality onto polymer.

### **§ 112 Rejections**

Claims 40-42 and 45-48 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 40 has been amended to delete the term "crosslinked" in the phrase "crosslinked film backing" in the "wherein" clause.

In summary, Applicants submit that the rejection of claims 40-42 and 45-48 under 35 USC § 112, second paragraph, has been overcome, and that the rejection should be withdrawn.

**§ 102/§ 103 Rejections**

Claims 39-42 and 45-47 are rejected under 35 USC § 102(b) as being anticipated by or, in the alternative, under 35 UCS § 103(a) as obvious over Skipper (US 4,322,575). Applicant traverses this rejection for the following reasons.

Skipper discloses an elongated substrate with a flame retarded cladding. The cladding is formed from a polymer composition. The composition includes a substantially crosslinked blend of a vinyl acetate/alkene copolymer with a further polymer. The composition incorporates an effective amount of a halogen-free inorganic flame retardant. Skipper provides three different compositions: (i) the vinyl acetate/alkene copolymer; (ii) a first vinyl acetate/alkene copolymer blended with a polyalkene or an alkene/alkene copolymer; and (iii) a second vinyl acetate/alkene copolymer blended with a polyalkene or an alkene/alkene copolymer. See col. 1, lines 8-28. Skipper further states that the alkene component of the vinyl acetate/alkene copolymer preferably comprises C<sub>2</sub> to C<sub>6</sub> alkene, particularly an  $\alpha$ -unsaturated alkene such as ethylene, 1-propylene and 1-butene and particularly ethylene. See col. 1, lines 47-51.

Applicant's invention, as amended, now recites a crosslinked polymer selected from the group consisting of ethylene-co-octene, ethylene and methyl acrylate and ethylene and butyl acrylate. Applicant's crosslinked polymer does not contain a vinyl acetate component. Applicant also defined specific thermally conductive fillers in the amended claims. These fillers are not disclosed in Skipper. For these reasons, the rejections claims 39-42 and 45-47 under 35 USC § 102(b) as being anticipated by or, in the alternative, under 35 UCS § 103(a) as obvious over Skipper has been overcome and should be withdrawn. Applicant's claims 41, 42 and 45-47 depend from claim 40 and are likewise novel and patentable over Skipper.

**§ 103 Rejections**

Claim 48 is rejected under 35 USC § 103(a) as being unpatentable over Skipper (US 4,322,575) in view of Ono et al. (US 3,971,766).

The office action acknowledges that Skipper does not teach the thickness of an adhesive tape but notes that Ono discloses a tape having a 40 micron thick adhesive layer and a 100 micron thick backing.

As stated above, Skipper does not render applicant's invention unpatentable because Skipper teaches a vinyl acetate/alkene copolymer or a vinyl acetate/alkene copolymer blended with a polyalkene or an alkene/alkene copolymer. Applicant's invention does not use any vinyl acetate but simply a copolymer of ethylene and octane, methyl acrylate, or butyl acrylate. Ono discloses an alkyl acrylate based pressure sensitive adhesive and while Ono teaches a tape, it does not disclose any tape based on a backing that is thermally conductive, as applicant has described in the instant application.

The rejection of claim 48 under 35 USC § 103(a) as being unpatentable over Skipper in view of Ono et al. has been overcome and should be withdrawn.

Claims 39-42 and 45-47 are rejected under 35 USC § 103(a) as being unpatentable over Skipper (US 4,322,575) in view of GB 2019412A (GB412A).

The office action states that Skipper points to GB412A as disclosing preferred linear low density ethylene copolymers. Skipper further incorporates the GB412A by reference. The office action concludes that it would have been obvious to a person of ordinary skill to use the polymer mixture as taught by GB 412A having a specified melt flow index prior to crosslinking in Skipper's invention and thereby presumably arriving at applicant's invention.

However, as applicant stated above, the linear low density of GB412A was only a preferred embodiment of the alkene in the vinyl acetate/alkene copolymer of Skipper. Thus, even if one skilled in the art made the substitution by using the linear low density ethylene of GB412A in Skipper, one skilled in the art would arrive at a copolymer of vinyl acetate and linear low density ethylene, which is not applicant's invention.

The rejection of claims 39-42 and 45-47 under 35 USC § 103(a) as being unpatentable over Skipper in view of GB412A has been overcome and should be withdrawn.

Claim 48 is rejected under 35 USC § 103(a) as being unpatentable over Skipper (US 4,322,575) in view of GB 2019412A (GB412A) as applied to claim 40 above, and further in view of Ono et al. (US 3,971,766).

Applicant's discussion of Skipper, GB412A and Ono have all been stated above.

The rejection of claim 48 under 35 USC § 103(a) as being unpatentable over Skipper in view of GB412A as applied to claim 40 above, and further in view of Ono et al. has been overcome and should be withdrawn.

In view of the above, it is submitted that the application is in condition for allowance.

Examination and reconsideration of the application as amended is requested.

Respectfully submitted,

27 January 2009  
Date

By: Yen Tong Florczak/  
Yen Tong Florczak, Reg. No.: 45,163  
Telephone No.: 651-737-0710

Office of Intellectual Property Counsel  
3M Innovative Properties Company  
Facsimile No.: 651-736-3833